

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s): Papallo et al.
Serial No.: 10/662,971
For: CIRCUIT PROTECTION SYSTEM
Filed: September 15, 2003
Examiner: Terrence R. Willoughby
Art Unit: 2836
Confirmation No.: 1096
Customer No.: 27,623

Attorney Docket No.: 138562

**Mail Stop Appeal-Brief Patents
Commissioner for Patents
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Alexandria, VA 22313-1450**

REPLY BRIEF

In response to the Examiner's Answer dated September 15, 2008, the period for reply ending on November 17, 2008, the Reply Brief filed herewith is believed to comply with the requirements set forth in 37 C.F.R. §41.41.

STATUS OF THE CLAIMS

Claims 3, 17, 22-31, 39, 45, 54, and 58 have been cancelled. Claims 1-2, 4-16, 18-21, 32-38, 40-44, 46-53, 55-57, and 59 are pending in this application, and are the subject of this Appeal. Claims 1, 12, 13, 32, and 46 are independent.

Independent claims 1 and 32, as well as claims 2, 4-11, 35-36, 38, and 40-43 that depend therefrom, respectively, were rejected under 35 U.S.C. §103 over U.S. Patent No. 6,411,865 to Qin et al. (Qin) in view of U.S. Patent No. 6,167,329 to Engel et al. (Engel).

Independent claims 12, 13, and 46, as well as claims 14-16, 18-21, 44, 46-53, 55-57, and 59 that depend therefrom, respectively, were rejected under 35 U.S.C. §103 over Qin and Engel in further view of U.S. Patent No. 5,875,088 to Matsko et al. (Matsko).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The first ground presented for review is the propriety of the final rejection of independent claims 1 and 32, as well as claims 2, 4-11, 35-36, 38, and 40-43 that depend therefrom, respectively, under 35 U.S.C. §103(a) over Qin in view of Engel.

The second ground presented for review is the propriety of the final rejection of independent claims 12, 13, and 46, as well as claims 14-16, 18-21, 44, 46-53, 55-57, and 59 that depend therefrom, respectively, under 35 U.S.C. §103(a) over Qin and Engel in view of Matsko.

ARGUMENTS

(a) First Ground

Independent claims 1, 12, and 13 each recite, in pertinent part, the step of "controlling said microprocessor to perform instantaneous overcurrent protection of the switching devices based at least in part on said electrical parameters", where the microprocessor also performs "said zone protective function" (emphasis added).

The Examiner's Answer makes clear that: (i) Qin teaches zone protective function for multiple devices and (ii) Engle teaches instantaneous overcurrent protection for a single switching device.

The Examiner has erroneously concluded from these two teachings that it would be obvious to modify the central unit 20 of Qin to not only perform the "zone protective function" for multiple devices as disclosed by Qin, but also to perform "instantaneous overcurrent protection" for these multiple devices.

Appellants maintain the traversal of such a conclusion.

First, none of the cited references disclose or suggest the use of a single processor that performs "instantaneous overcurrent protection" for multiple "switching devices" as claimed. In fact, the Examiner's Answer admits this distinction. See page 17, lines 16-18.

Instead, the Examiner asserts that it would be obvious to one skilled in the art to modify the central unit 20 of Qin to include the "instantaneous overcurrent protection" functionality of Engle, and then to further modify this central unit 20 to use the "instantaneous overcurrent protection" not just on a single switching device (as was taught in Engle), but for multiple switching devices.

Appellants submit that the cited art does not establish, and the Examiner fails to assert, that any prior art processor discloses or suggests the **function** of performing “instantaneous overcurrent protection” for multiple “switching devices” as claimed.

Therefore, Appellants submit that the modification proposed by the Examiner is not simply the addition of “instantaneous overcurrent protection” from Engle to the central unit 20 of Qin.

Rather, the modification proposed by the Office Action changes the very essence of Engle from local instantaneous overcurrent protection to centralized instantaneous overcurrent protection, which is clearly **more** than a “predictable use” of prior art elements according to their **established functions**.

Moreover, the modification proposed by the Office Action changes the very essence of Qin from zone protection of multiple devices to instantaneous protection of those devices, which is also clearly **more** than a “predictable use” of prior art elements according to their **established functions**.

Matsko is not asserted by the Office Action, nor does Matsko disclose or suggest, the claimed microprocessor that performs both the “zone protective function” and the “instantaneous overcurrent protection”. Instead, Matsko was merely relied upon for disclosing a dynamic time delay.

Therefore, Appellants submit that one skilled in the art would not have any reasonable expectation that the device of Qin could be *successfully modified* with the teaching of Engle and/or Matsko in the manner suggested by the Examiner to provide the claimed invention.

Accordingly, claims 1, 12, and 13, as well as dependent claims 2, 4-11, 14-16, and 18-21, are in condition for issuance.

(b) Second Ground

Independent claims 32 and 46 each recite that the control processing unit “performs all primary power distribution functions for the circuit power distribution system and performs a zone protective function (emphasis added)”.

Appellants maintain that the modification proposed by the Office Action changes the very essence of Engle from local performance of primary power distribution functions to centralized performance of these functions, which is clearly more than a “predictable use” of prior art elements according to their established functions.

Moreover, the modification proposed by the Office Action changes the very essence of Qin from zone protection of multiple devices to primary power distribution functions of those devices, which is also clearly more than a “predictable use” of prior art elements according to their established functions.

Matsko is not asserted by the Office Action, nor does Matsko disclose or suggest, the claimed control processing unit that performs both the “zone protective function” and “all primary power distribution functions”. Instead, Matsko was merely relied upon for disclosing a dynamic time delay.

Therefore, Appellants submit that one skilled in the art would not have any reasonable expectation that the device of Qin could be *successfully modified* with the teaching of Engle and/or Matsko in the manner suggested by the Examiner to provide the claimed invention.

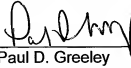
Therefore, claims 32 and 46, as well as dependent claims 33-38, 40-44, 47-53, 55-57, and 59 are in condition for issuance.

Summary

In summary, Appellants respectfully request that the Board of Appeals reverse the final rejection of all of the pending claims, thereby enabling the present application to issue.

Respectfully submitted,

November 14, 2008



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